

CHAPTER 6: SCOPING AND REVIEW COMMENTS

6.1 SCOPING

6.1.1 Notice of Intent to Prepare an EIS

Notice of Intent (NOI) to prepare an EIS for the management plan for the bottomfish and seamount groundfish fishery in the Western Pacific Region was issued on August 16, 1999 by the National Marine Fisheries Service (64 FR 44476).

6.1.2 Scoping Meetings

Scoping for the EIS began in December 1999 with public meetings in Guam, the Northern Mariana Islands, American Samoa, and Hawai'i. Written comments were solicited. The dates and locations of scoping meetings are as follows:

1.	20 December 1999	Pago Pago, American Samoa
2.	28 December 1999	Guam
3.	28 December 1999	Kona, Hawai'i
4.	29 December 1999	Saipan, Commonwealth of the Northern Mariana Islands
5.	29 December 1999	Hilo, Hawai'i
6.	4 January 2000	Kahului, Maui
7.	5 January 2000	Hale'iwa, O'ahu
8.	6 January 2000	Līhu'e, Kaua'i
9.	10 January 2000	Wai'anae, O'ahu
10.	11 January 2000	Lāna'i City, Lāna'i
11.	12 January 2000	Kaunakakai, Moloka'i
12.	13 January 2000	Honolulu, O'ahu

The Western Pacific Regional Fishery Management Council prepared a summary of comments received during the scoping meetings. The summarized comments are as follows:

- The fishing fleet could be used to collect Hawaiian monk seal interaction information.
- If the bottomfish fishery is closed or restricted, fisherman should be compensated by the government.
- No bottomfish fishery impacts on Hawaiian monk seal populations were reported in the early 1990s based on NMFS observer reports.
- The fishing rights of indigenous people need to be considered in the EIS process.
- The community development program permits in the Mau Zone should be subject to a use it or lose it provision.

- Copies of the draft EIS should be available at Lānaʻi and Molokaʻi public libraries.
- The current bottomfish management regime should not be changed.
- The use of longline gear should be restricted as is being done for the pelagic fishery.
- The impact of taʻape on bottomfish stocks should be studied.
- Formal scoping meetings should be held in Waiʻanae.
- The bottomfish population in the CNMI is reduced relative to 20-30 years ago. More information is needed to assess the stocks. NMFS should do a comprehensive bottomfish survey.
- Federal regulations for the bottomfish fishery do not apply to the CNMI.

During the scoping process written comments were received from Mr. Henry Okamoto of Honolulu and the U.S. Fish and Wildlife Service. Mr. Okamoto stated the FMP is not based on sound knowledge of the bottomfish fishery, and that the plan should be based on two primary species for which information is available, *onaga* and *ʻōpakapaka*. The U.S. Fish and Wildlife Service had the following comments:

- The purpose of the EIS should be to 1) identify the proposed and existing fishery activities and management measures, 2) assess the potential impacts of these activities and measures, and 3) specify measures to avoid unnecessary impacts and compensate for unavoidable significant impacts anticipated to result from the fishery activities.
- The EISs should address the impacts of the fisheries on endangered and threatened species, migratory birds, coral reefs, and rare native species and habitats.
- The EIS should identify federally protected resource areas that exist within or near EEZ waters. The cumulative impacts (e.g., increased boat traffic, marine debris, shipwrecks) on these protected areas should be addressed.
- The following should be consulted regarding native species and habitats: Hawaiʻi Department of Land and Natural Resources, Guam Division of Aquatic Resources, and the Northern Marianas Islands Division of Fish and Wildlife.
- The EIS should discuss the designations of the marine boundaries and summarize existing conservation regulations for the Hawaiian Islands National Wildlife Refuge (NWR), Midway Atoll NWR, Baker Island NWR, Howland Island NWR, Jarvis Island NWR, Johnston Island NWR, and Rose Atoll NWR.
- Discuss the risk of introducing marine and terrestrial alien species, oil spills and ship groundings, and describe how marine and terrestrial alien species will be controlled.

6.2 REVIEW OF THE DRAFT EIS

6.2.1 Distribution of the DEIS

The following agencies, organizations and individuals were provided review copies of the DEIS.

Federal Agencies

Secretary	U.S. Department of Commerce
Secretary	U.S. Department of Interior
Secretary	U.S. Department of State
Secretary	U.S. Department of Transportation
Director	National Science Foundation
Administrators	National Marine Fisheries Service Regional Offices
Directors	National Marine Fisheries Service (NMFS) Science Centers
Administrator	National Oceanic and Atmospheric Administration
Deputy Assistant Secretary	National Oceanic and Atmospheric Administration
Director	NMFS PIFSC
Chief	NMFS Office of Law Enforcement, Long Beach & Hawai'i
Administrator	NMFS Pacific Islands Area Office
Director	Office of Policy & Strategic Planning, NOAA
Executive Director	Science Advisory Board, NOAA
General Counsel	Southwest Region, NOAA
Director	U.S. Army Corps of Engineers
Admiral	U.S. Coast Guard (Hdqtrs., 14 th District & Public Affairs)
Administrator	U.S. Fish and Wildlife Service
Chairman	Marine and Fisheries Advisory Council

U.S. Congressional Delegation:

Representative	Commonwealth of the Northern Mariana Islands
Senators	State of Hawai'i
Representatives	State of Hawai'i
Representative	Territory of Guam
Representative	Territory of American Samoa

International Organizations

Director General	Food and Agriculture Organization
Director	Inter-American Tropical Tuna Commission
Director General	International Center for Living Aquatic Resource Management
Director	International Marine Life Alliance
Director General	Secretariate of the Pacific Community
Director	South Pacific Regional Environment Programme

State/Territory/Commonwealth Agencies/Organizations

Governor	Commonwealth of the Northern Mariana Islands
Governor	State of Hawai'i
Governor	Territory of American Samoa
Governor	Territory of Guam
Director	American Samoa Coastal Management Program
Director	American Samoa Department of Marine and Wildlife Resources
Director	American Samoa Department of Planning
Director	American Samoa Environmental Protection Agency
Director	CNMI Coastal Resources Management
Director	CNMI Department of Planning
Director	CNMI Division of Fish & Wildlife
Director	CNMI Division of Environmental Quality
Director	Division of Aquatic Resources, DLNR
Director	Division of Conservation & Resource Enforcement, DLNR
Director	Guam Bureau of Planning
Director	Guam Coastal Management Program
Director	Guam Division of Aquatic and Wildlife Resources
Director	Guam Environmental Protection Agency
Director	Hawai'i Coastal Zone Management Program
Director	Hawai'i Department of Health
Director	Hawai'i Department of Land and Natural Resources
Director	Hawai'i Office of Environmental Quality Control
Manager	Living Marine Resources, U.S. Coast Guard, Hawai'i
Director	Office of Hawaiian Affairs

Other Organizations

President	American Samoa Community College
Director	Center for Marine Conservation
Director	Earth Justice Legal Defense Fund
Director	Environmental Defense Fund
Director	EnviroWatch, Inc
President	Guam Fishermen's Cooperative Association
President	Hawai'i Audubon Society
President	Hawai'i Bottomfish Association
President	Hawai'i Fishermen's Foundation
President	Hawai'i Seafood Industry Association.
President	Hawai'i Sport Fishing Club
President	Kawaihae Fishing Club
President	Ke'ehi Sport Fishing Club
Director	Living Oceans Program, National Audubon Society
President	Mā'alaea Boat & Fishing Club
Director	Natural Resources Defense Council
Director	Nature Conservancy, Hawai'i
President	Northern Marianas College
Director	Ocean Wildlife Campaign
Director	Sierra Club, Hawai'i
Director	United Fishing Agency, Hawai'i
Director	UH School of Law, Environmental Law Program
Director	University of Guam Marine Laboratory
Director	University of Hawai'i Institute of Marine Biology
Director	Western Pacific Fisheries Coalition
President	Windward Sport Fishing Club
Director	World Wildlife Fund

Individuals

Bill Bradford	Guam Fisherman's Cooperative Association
Tony Costa	Nearshore Commercial Fishing, Hawai'i
Ernest Kanehailua, Jr.	Native Hawaiian Fishing Council
George Krasnick	URS Corporation
Dave Raney	Sierra Club, Hawai'i
Jeff Walker	Fisherman, Hawai'i
Richard Tamashiro	Fisherman, Hawai'i

Council Groups

Executive Directors	Regional Fishery Management Councils
Council Members	Western Pacific Regional Fishery Management Council
Members	WPRFMC Bottomfish & Seamount Groundfish Plan Team
Members	WPRFMC Commercial Advisory Panel
Members	WPRFMC Coral Reef Ecosystem Plan Team
Members	WPRFMC Crustaceans Plan Team
Members	WPRFMC Demonstration Projects Advisory Panel
Members	WPRFMC Ecosystem & Habitat Advisory Panel
Members	WPRFMC Pelagics Plan Team
Members	WPRFMC Precious Corals Plan Team
Members	WPRFMC Recreational Advisory Panel
Members	WPRFMC Scientific and Statistical Committee
Members	WPRFMC Subsistence/Indigenous Advisory Panel
Federal Permit Holders	NWHI Bottomfish fishery

Media

News Editor	Associated Press, Hawai'i
Editor	Environment Hawai'i
Editor	Hawai'i Fishing News
Editor	Hawai'i Tribune-Herald
Editor	Honolulu Advertiser (O'ahu, Kaua'i and Maui offices)
Editor	Honolulu Star Bulletin (O'ahu, Kaua'i and Maui offices)
Editor	Honolulu Weekly
Editor	Kaua'i Times
Editor	Marianas Variety
Editor	Maui News
Editor	Moloka'i Advertiser-News
Editor	Pacific Daily News, Guam
Director	Public Libraries (Am. Samoa, Guam, Hawai'i, CNMI)
Editor	Samoa News
Editor	The Garden Island, Kaua'i

6.2.2 Comments on the Draft EIS

Comments on the DEIS and responses to those comments are summarized in the following table.

Source	Cite	Comment	Response
Letter from U.S. EPA (Lisa Hanf) (Detailed Comments)	Page 1, Lines 14-15	The DEIS does not describe what efforts are being undertaken to coordinate management of bottomfish (and other) fisheries in overlapping jurisdictions within the Western Pacific.	The entities with overlapping management responsibilities in the Western Pacific Region include NMFS, NOS, the WPRFMC, FWS, the State of Hawaii, the Territories of Guam and American Samoa, and the Commonwealth of the Northern Mariana Islands. All of the other entities are represented on the WPRFMC and on various of its advisory bodies including the FMP Plan Teams. Likewise, all of these entities are represented on the NWHI ER RAC. It should be noted that, under the Sanctuaries Act (16 U.S.C. §§ 1431 <i>et. seq.</i>), the Council is responsible for developing fishing regulations (subject to Secretarial approval) that would be imposed in any Western Pacific Region Sanctuary. Description of these mechanisms will be included in Section 1.4, and the NMSA is described in Appendix G.
Letter from U.S. EPA (Lisa Hanf) (Detailed Comments)	Page 1, Lines 15-21	There is no discussion of whether the FMP would need to be amended in the future to reflect laws which might conflict with FMP management, or whether the Pacific (sic) Fisheries (sic) Management Council (Council) and National Marine Fisheries Service (NMFS) intend only to implement and enforce FMP regulations, and rely on other state and federal agencies to enforce separate regulations with the same geographic area. It seems that such an approach would create confusion for the fishing community, regulating agencies, and the public.	The FMP is a “living” document that will be amended as necessary and appropriate in response to statutory changes as well as evolving management needs consequent to changes in biological or economic circumstances. The Council neither implements nor enforces regulations; those are NMFS, NOAA/OLE and USCG functions. While in some instances state and federal agencies may enter into cooperative agreements for enforcement, federal agencies generally do not enforce state regulations. In the case of the NWHI bottomfish fishery, regulations were promulgated in 1986 to implement the FMP, and enforcement is done by NOAA/OLE and the USCG. In response to a request by the Council Chair for clarification, Secretary Evans replied in a letter dated June 30, 2001 “(w)hile the sanctuary designation process and review of the Executive Orders are underway, the Department will continue to use conservation and management measures under existing statutory authorities, including the Magnuson-Stevens Fishery Conservation and Management Act, to meet the Act’s requirements to manage marine resources in the Northwest Hawaiian Islands consistent with the purposes and policies of the National Marine Sanctuaries Act.” The current status of enforcement in the NWHI is described in Section 1.4.

Source	Cite	Comment	Response
Letter from U.S. EPA (Lisa Hanf) (Detailed Comments)	Page 1, Lines 22-31	Recommendation: The Final EIS (FEIS) should include an expanded discussion of conflicts between the proposed no-action alternative (status quo under the existing FMP) and other state and federal laws which restrict bottomfish fishing in the same geographic area of the Western Pacific. Specifically, the FEIS should describe potential enforcement conflicts, efforts by the Council and NMFS to educate bottomfish license-holders of other fishing restrictions in the Western Pacific, the possibility of future amendments to the FMP to reflect other regulations or restrictions on bottomfishing, and efforts of the Council and NMFS to work with other state and federal agencies to achieve consistent regulations in areas of overlapping geographic jurisdictions.	Much of this recommendation essentially describes the ongoing Council process. Representatives of NMFS, State of Hawaii, Territories of American Samoa and Guam, and CNMI are voting members of the Council, with representatives of various federal agencies including USFWS, NOS, USCG, DOS participating. Education of bottomfish permit holders is accomplished through mandatory protected species workshops required of vessel operators. At these workshops, the varying management regimes in the NWHI and their prohibitions are described. Section 1.4 has been expanded to describe these various management regimes and how conflicts are avoided. Section 4.5 describes the different (proposed and existing) management regimes for bottomfish fishing in the NWHI.

Source	Cite	Comment	Response
Letter from U.S. EPA (Lisa Hanf) (Detailed Comments)	Page 1, Lines 32-34 Page 2, Lines 3-13	The DEIS describes the potential impacts to the federally-endangered Hawaiian monk seal from behavioral modification, hooking and entanglement, intentional injury, biotoxin and discard poisoning, and reduction of available prey. The document concludes that there may be negative impacts to the monk seal population from changes in feeding behavior related to the bottomfish fishery, but that the fishery is unlikely to have significant direct or indirect effects. The DEIS states that members of the bottomfish fishermen's association have agreed to several voluntary measures to help minimize the potential impacts. It is unclear from the document whether these measures have been or will be incorporated into the FMP as part of the preferred alternative. Recommendation: The FEIS should discuss whether voluntary measures to protect the Hawaiian monk seal will be incorporated into the FMP, and how the Council and NMFS will monitor their implementation and effectiveness.	At the present time it is not expected that the voluntary measures will be incorporated into the FMP and codified in regulations. Currently, bottomfish fishermen with NWHI limited entry permits are required by regulation to attend protected species workshops, where these measures are described and discussed. In addition, as of October 28, 2003 NMFS has re-instituted the observer program for this fishery, which will allow monitoring of the implementation and effectiveness of these measures. Observer coverage for the 4 th quarter of 2003 and the 1 st quarter of 2004 was 20%. There were no interactions with marine mammals observed during this period. The voluntary measures are described in Section 4.1.3.1.2.

Source	Cite	Comment	Response
Letter from U.S. DOI (Patricia Sanderson Port)	Page 1, last paragraph, Page 2, paragraphs 1-5	The commenter believes that the No Action Alternative, because it contains ongoing Council actions, constitutes an action alternative rather than a true status quo against which the other alternatives may be compared.	At the time the document was completed by Council staff and their consultants, six measures (as detailed in Section 2.3.5) had been passed by the Council and forwarded to NMFS for action. It was anticipated that these measures would be processed expediently and implementing regulations finalized before the FEIS was completed. For various reasons, that did not happen. Only one of the six measures has moved forward in the interim. The current status quo is therefore the regulations shown in Section 2.3.4 along with the approved revised definitions of bycatch, overfishing and fishing communities described in Section 2.3.5.4. To clarify this situation, a true No Action Alternative, Alternative 1A, has been defined to consist of the current regulations including the new definitions. A new alternative, Alternative 1B (the Preferred Alternative), consisting of Alternative 1A plus the five remaining pending actions has been added. Text throughout the document has been modified to reflect this change.
Letter from U.S. DOI (Patricia Sanderson Port)	Page 2, paragraphs 6-9, Page 3, first 3 paragraphs	The commenter believes that NMFS intends to usurp management authority for fisheries within the boundaries of the National Wildlife Refuges in the NWHI and the PRIA. The commenter cites a 2002 agreement between the NMFS and the FWS regarding fishing in the NWHI NWR under terms of the Coral Reef Ecosystem FMP as resolving the differing boundary claims of the two agencies.	Appendix G of the DEIS describes the marine boundaries in the Western Pacific Region, including the Wildlife Refuges and Units. It describes the differing claims of the Dept. of Commerce and the Dept. of Interior regarding refuge boundaries and their legal foundations. Table 1 of that appendix is a summary of those claims and those of other jurisdictions as well. It is recognized that this EIS is not a vehicle for resolution of those differing claims. The agreement cited between NMFS and the FWS was developed solely and exclusively for the CRE FMP. It is not and should not be interpreted to be applicable to any management regime other than that of the CRE FMP. However, fishermen throughout the Region are obliged to follow the most restrictive management regime in effect in each area. Section 1.4 of the EIS has been expanded to include a statement to that effect.
Letter from U.S. DOI (Patricia Sanderson Port)	Page 3, specific comment 1	Consideration of the National Wildlife Refuge System Administration Act and the Endangered Species Act is not complete.	The reader's attention is directed to Appendix H which reproduces the 2002 Biological Opinion documenting consultation on the BSG FMP completed under Section 7 of the ESA. The conclusion of this consultation is that the bottomfish fishery is not likely to jeopardize the continued existence of any threatened or endangered species under NMFS' jurisdiction or destroy or adversely modify critical habitat that has been designated for them. Section 3.3.1.3 contains a description of the Hawaiian monk seal critical habitat. A discussion of the NWRSA has been added to Appendix G.

Source	Cite	Comment	Response
Letter from U.S. DOI (Patricia Sanderson Port)	Page 3, specific comment 2	In the list of issues, please revise “Threatened and Endangered Species” to read “Threatened and Endangered Species and Designated Critical Habitat.”	In the list of issues, “Threatened and Endangered Species” has been revised to read “Threatened and Endangered Species and Designated Critical Habitat.”.
Letter from U.S. DOI (Patricia Sanderson Port)	Page 3, specific comment 3	Explain the rationale for selecting the most restrictive use zones.	The Preservation Zone was designed to afford protection to the most important colonies of the Hawaiian monk seal. The two most important areas are French Frigate Shoals and Laysan, and they are protected under Alternative 4A. Alternative 4B would protect those two areas as well as the three next most important areas, Lisianski, Pearl and Hermes, and Kure. Midway Atoll was treated as a special case, and given its own designation, the “Ecotourism Zone,” so that permitted uses under the FMP would exactly coincide with permitted uses under the NWR management regime. Monk seals are adequately protected under that regime and inclusion of Midway in the Preservation Zone would have created use conflicts with Midway Atoll NWR management policies. The rationale for these designations is developed in the descriptions of the existing environment in Chapter 3. A summary of the rationale for selecting the most restrictive use zone has been added to Chapter 2.
Letter from U.S. DOI (Patricia Sanderson Port)	Page 3, specific comment 4	Provide a basis for the conclusion that there is low mortality associated with hookings of non-target and threatened and endangered species, especially sea birds.	The bullet list referred to is a summary of conclusions. The bases for these conclusions are found in Chapter 4, which describes the impacts to each of these resources. In particular, see page 4-14 for a description of the impacts of the existing fishery on seabirds.
Letter from U.S. DOI (Patricia Sanderson Port)	Page 3, specific comment 5	It is recommended that language from EO 13178 be used to avoid misrepresentation of its directives. Substitute the word “indefinitely” for the word “currently.” Clarify that a sanctuary cannot lessen the protection of areas under reserve jurisdiction. Clarify that the DEIS for the CRE FMP was not approved for implementation in the NWHI.	The word “currently” appears nowhere in the cited section. Characterization of the management regime for the proposed Sanctuary would be speculative at this time as alternatives for analysis in the EIS for the sanctuary designation process have yet to be defined.

Source	Cite	Comment	Response
Letter from U.S. DOI (Patricia Sanderson Port)	Page 4, specific comment 6	The DEIS proposes to regulate fishing in NWRs without indicating that FWS authorization would be required and does not analyze how that would impact implementation of the NWRSAA. Clarify that only FWS can authorize fishing in NWRs and that the FWS has not been consulted on the proposed zones.	Section 1.4 has been expanded to indicate that FWS authorization would be required to fish in a NWR. Section 5.4 has been expanded to summarize possible conflicts in the management regimes. A discussion of the NWRSAA will be added to Appendix G. The proposed zones were developed in an open Council process in which the FWS has a role as a member of the WPRFMC. This EIS has been discussed at every regular meeting of the Council for over four years, as well as at meetings of its Standing Committee, Plan Team and Scientific and Statistical Committee. Council staff and consultants have made presentations at each of these meetings, including a meeting on Midway Atoll, which was attended by a number of FWS personnel. In addition, there were a series of scoping meetings held throughout the Region where the zoning concept and definitions of the proposed zones were introduced.
Letter from U.S. DOI (Patricia Sanderson Port)	Page 4, specific comment 7	Information should be presented on where relevant NWR and National Park boundaries exist in relation to the proposed fishing areas.	Appendix G of the DEIS describes the marine boundaries in the Western Pacific Region, including the Wildlife Refuges and Units. To insure that the areas under FWS jurisdiction are recognized early in the document, a paragraph has been added to Section 1.4 generally describing those areas. Several National Parks in the Region include contiguous submerged lands and ocean waters, but these areas are very close to shore and do not extend beyond the three-mile limit of local jurisdiction.
Letter from U.S. DOI (Patricia Sanderson Port)	Page 4, specific comment 8	Proposed regulations on gear restrictions may not effectively guard against the use of unauthorized gear. Regulations should include gear and vessel confiscation. Illegal fishers should be fined and permits/licenses revoked. Maximum catch limits should be imposed.	The regulations described on page 2-13 are not proposed; they are the regulations currently in force. The appropriate vehicles for establishing penalties are the enabling statute and penalty schedules issued by NOAA General Counsel, not the regulations. In the absence of any evidence of overfishing or that the resident stocks are in an overfished condition, under the Sustainable Fisheries Act, there is no reason to impose catch limitations.

Source	Cite	Comment	Response
Letter from U.S. DOI (Patricia Sanderson Port)	Page 4, specific comment 9	It is unclear how the proposed expansion of the FMP to the CNMI and PRIAs can be part of the No Action alternative. The proposed expansion increases the likelihood of fishing-related encroachment within the boundaries of the NWRs in the PRIAs.	To clarify this situation, a true No Action Alternative, Alternative 1A, has been defined to consist of the current regulations including the new definitions. A new alternative, Alternative 1B (the Preferred Alternative), consisting of Alternative 1A plus the five remaining pending actions will be added. Text throughout the document will be modified to reflect this change. Appendix G of the DEIS describes the marine boundaries in the Western Pacific Region, including the Wildlife Refuges and Units. It describes the differing claims of the Dept. of Commerce and the Dept. of Interior regarding refuge boundaries and their legal foundations. Table 1 of that appendix is a summary of those claims and those of other jurisdictions as well. Fishermen throughout the Region are obliged to follow the most restrictive management regime in effect in each area. Section 1.4 of the EIS has been expanded to include a statement to that effect.
Letter from U.S. DOI (Patricia Sanderson Port)	Page 4, specific comment 10	Addition of new management unit species should not be part of the No Action alternative.	To clarify this situation, a true No Action Alternative, Alternative 1A, to consist of the current regulations including the new definitions has been defined. A new alternative, Alternative 1B (the Preferred Alternative), consisting of Alternative 1A plus the five remaining pending actions has been added. Text throughout the document has been modified to reflect this change.
Letter from U.S. DOI (Patricia Sanderson Port)	Page 5, specific comment 11	Expansion of the management area and addition of new management unit species should not be a part of No Action. Recommend quantitative definition of “minimal risk” and other risks.	To clarify the alternatives, a true No Action Alternative, Alternative 1A, to consist of the current regulations including the new definitions has been defined. It is not possible to quantitatively define qualitative terms such as “minimal.” Minimal risk is used in the EIS to describe a statistically highly unlikely event that might affect an isolated individual, but would clearly not affect population structure, distribution or sustainability.
Letter from U.S. DOI (Patricia Sanderson Port)	Page 5, specific comment 12	If the existing deepwater bottom fishery occurs at depths of 100 to 400 meters, then 100 meters should be the shallowest limit for targeting bottomfish. Where NWR boundaries extend to greater depths bottomfish fishing should be restricted to areas beyond the refuge boundaries.	This section will be revised to indicate that while deepwater snappers are associated with the given depth range, there are other commercially important PMUS that inhabit and are fished for in shallower waters. In particular, the <i>uku</i> (<i>Aprion virescens</i>) is often fished for by slow trolling in waters shallower than 100 meters. As explained above, the seaward boundaries of the NWRs are in dispute. A complete description of the various jurisdictional claims may be found in Appendix G.

Source	Cite	Comment	Response
Letter from U.S. DOI (Patricia Sanderson Port)	Page 5, specific comment 13	Modify Table 3-2 from an archipelago-wide summary to an island-by-island presentation.	The NWHI bottomfish fishery consists of so few vessels that to reveal annual island-by-island catch records would in many cases violate data confidentiality restrictions.
Letter from U.S. DOI (Patricia Sanderson Port)	Page 5, specific comment 14	The rapid depletion of the alfonsin and armorhead stocks on Hancock Seamount raises concern for ensuring effective management of other bottomfish stocks in the NWHI. Recommend DEIS include provisions to avoid similar situations, including protecting the 30 plus other seamounts in the NWHI.	The seamount groundfish stocks were over-exploited by foreign trawler vessels before establishment of the 200 mile Fishery Conservation Zone (FCZ), later the Exclusive Economic Zone (EEZ), and implementation of the BSG FMP. Bottom trawl gear is explicitly prohibited by current FMP regulations, and thus is part of the No Action Alternative.
Letter from U.S. DOI (Patricia Sanderson Port)	Page 5, specific comment 15	Certain bycatch species may be killed and discarded to avoid their preying on target species. Additional discussion and precautions are warranted. Catch statistics and data should be presented to assess the degree to which fishers are complying with established fishery controls.	Section 3.2.2 presents the best available data on bycatch in the NWHI bottomfish fishery, that from observers deployed in the fishery from 1990-1993. NMFS recently (October 28, 2003) reinstituted the bottomfish observer program. Section 3.2.3 summarizes anticipated measures to further reduce bycatch and bycatch mortality and improve bycatch reporting. This section has been augmented to describe the extent to which these measures have been implemented and the results available to date.
Letter from U.S. DOI (Patricia Sanderson Port)	Page 6, specific comment 16	Quantify “take” of migratory birds, including resident seabirds and migratory shorebirds, by gear type. Identify existing and proposed precautions to reduce interactions and “take.”	Bottomfish fishery gear typically consists of a handline with multiple hooks deployed vertically through the water column from a stationary or slowly drifting vessel. There is little opportunity for a bird to become hooked on this gear. Occasionally, fishermen will troll slowly for uku, but the baits or lures in that case are usually positioned below the surface, for example with a cannonball or downrigger, out of reach of birds. Bottomfish fishermen occasionally hook a bird when they are trolling for pelagic species in transiting between fishing locations or to and from port. In more than three years of observer coverage in this fishery, there was one instance of a bird hooking and that was while the vessel was underway and trolling for pelagic species (see page 4-14). Information from the recent resumption of observer coverage indicates that there were three interactions with seabirds in the 4 th quarter of 2003 and the 1 st quarter of 2004. Two unidentified boobies were entangled during trolling operations and one black-footed albatross was entangled during bottomfishing operations.

Source	Cite	Comment	Response
Letter from U.S. DOI (Patricia Sanderson Port)	Page 6, specific comment 17	Add a graph of total monk seal population over time; "error bars" would aid understanding of the data. Update to 2003.	Figure 3-2 on page 3-22 plots the summed beach counts of non-pup monk seals at the six main breeding colonies from 1958 to 1999. These remain the best available data.
Letter from U.S. DOI (Patricia Sanderson Port)	Page 6, specific comment 18	The EIS should say that monk seals are opportunistic feeders and it is likely that lobsters were a larger fraction of the diet when they were more abundant, especially for pups. More intensive monitoring of prey items and fishing activities would be beneficial. The primary focus should be on reversing the decline of monk seals rather than on reopening the lobster fishery.	The role of lobsters in the monk seal diet and how it might have changed over time is unresolved. The requested conclusion is speculative. The population of monk seals in the MHI is increasing although lobsters are heavily fished there. Resumption of observer coverage in this fishery will provide increased monitoring of fishing activities. There were no interactions with marine mammals observed in the 4 th quarter of 2003 or the 1 st quarter of 2004, with 20% observer coverage. This EIS does not analyze the impacts of alternatives for the lobster fishery.
Letter from U.S. DOI (Patricia Sanderson Port)	Page 6, specific comment 19	Revise Figure 3-6 to be more readable.	The readability of this figure has been improved.
Letter from U.S. DOI (Patricia Sanderson Port)	Page 6, specific comment 20	MPAs proposed as part of the CRE FMP are irrelevant because the plan does not apply to the NWHI so their discussion should be eliminated.	The status of the CRE FMP was unresolved when the DEIS was completed. The discussion was included at the request of personnel from NMFS Headquarters, NOS and the FWS. A clarification of the status of the CRE FMP has been added to Section 1.4.
Letter from U.S. DOI (Patricia Sanderson Port)	Page 6, specific comment 21	Information is incomplete. Reference to Maragos and Holthus 1995 should be Maragos and Holthus 1999. The statement "coral reefs and reef building organisms are confined to the shallow upper photic zone and are normally restricted to depths less than 50 to 100m (25-50 fathoms)" implies that some reef organisms occur at greater depth. Holthus and Maragos 1995 define reefs as extending to 200 meters. Maragos and Jokiel 1986 found zooxanthellate corals at 165 meters. Clarify in the EIS.	Citation has been corrected. Text of Section 3.4.3.1 has been augmented to reflect the change.
Letter from U.S. DOI (Patricia Sanderson Port)	Page 7, specific comment 22	Include more recent information from Maragos 1995 and Maragos et al. in press.	Information in Section 3.4.3.1 has been updated as possible (copy of in press article was requested).

Source	Cite	Comment	Response
Letter from U.S. DOI (Patricia Sanderson Port)	Page 7, specific comment 23	Citation for Johnston Island coral information is lacking. Recommend including the most recent information from Maragos and Jokiel 1986 and Maragos et al. in press.	The missing citation is Green 1997. Information in Section 3.4.3.1 has been updated as possible (copy of in press article was requested).
Letter from U.S. DOI (Patricia Sanderson Port)	Page 7, specific comment 24	Many target species are endemic. The EIS should recognize their uniqueness and they should be subject to greater assessment, monitoring and protection.	Of the BMUS, only the hapuupuu is endemic, and the most current data show this stock is neither overfished, nor is overfishing occurring. All species managed under the FMP are subject to the same levels of assessment, monitoring and protection afforded by the SFA and its criteria for prevention of overfishing and recovery of overfished stocks.
Letter from U.S. DOI (Patricia Sanderson Port)	Page 7, specific comment 25	Include data on shark predation on catch and a thorough discussion of its significance.	The section referenced concerns marine mammals. The discussion may be found in Section 3.2.2 beginning on page 3-8.
Letter from U.S. DOI (Patricia Sanderson Port)	Page 7, specific comment 26	The conclusion “there is no evidence that Hawaiian monk seals depend on the species targeted or caught incidentally in the fishery” is not supported by the data presented. The monk seal is an opportunistic predator whose diet has likely shifted to greater reliance on bottomfish due to the demise of the lobster fishery. Bottomfishing takes place as shallow as 15-20 fathoms which likely encroaches on feeding habitat of pups and adults and competes with seals for limited prey. We recommend no bottomfishing at depths less than 50 fathoms where monk seals are known to occur.	The scat and spew data reported by Goodman-Lowe (1998) clearly do support this conclusion. Any change in the relative importance of bottomfish vis a vis lobster in the monk seal diet is speculative at this time. The lobster fishery has now been closed for five years and there is recent evidence that lobster stocks are increasing. Appendix H reproduces the 2002 Biological Opinion documenting consultation on the Bottomfish FMP completed under Section 7 of the ESA. The conclusion of this consultation is that the bottomfish fishery is not likely to jeopardize the continued existence of any threatened or endangered species under NMFS’ jurisdiction or destroy or adversely modify critical habitat that has been designated for them.

Source	Cite	Comment	Response
Letter from U.S. DOI (Patricia Sanderson Port)	Page 8, specific comment 27	Hooking and loss of seabirds and shorebirds by bottomfishers is not quantified and the significance is not assessed. Present population trends for resident seabirds injured or killed by fisheries interactions and discuss significance.	Seabird interactions with the bottomfish fishery are very rare. See page 4-14 and the response to specific comment 16. During the more than three years of previous observer coverage, one Laysan albatross was observed hooked while a bottomfishing vessel was trolling for pelagic species. Information from the recent resumption of observer coverage indicates that there were three interactions with seabirds in the 4 th quarter of 2003 and the 1 st quarter of 2004. Two unidentified boobies were entangled during trolling operations and one black-footed albatross was entangled during bottomfishing operations.
Letter from U.S. DOI (Patricia Sanderson Port)	Page 8, specific comment 28	The DEIS improperly evaluates the NWHI CRER as part of the proposed action. Information on the Reserve should appear in the Affected Environment because it exists. Impacts of the FMP on the Reserve should be evaluated.	The Reserve is not part of the proposed action evaluated in this EIS and is not evaluated as such. The treatment of the Reserve in this EIS was agreed to in consultation with DOI.
Letter from U.S. DOI (Patricia Sanderson Port)	Page 8, specific comment 29	The DEIS does not fully recognize the relevant NWRs and Reserve as part of the existing environment. The DEIS does not recognize the recent NMFS-FWS agreement on FMP-related fishing in the NWR system.	Appendix G of the DEIS describes the marine boundaries in the Western Pacific Region, including the Wildlife Refuges and Units. It describes the differing claims of the Dept. of Commerce and the Dept. of Interior regarding refuge boundaries and their legal foundations. Table 1 of that appendix is a summary of those claims and those of other jurisdictions as well. It is recognized that this EIS is not a vehicle for resolution of those differing claims. The agreement cited between NMFS and the FWS was developed solely and exclusively for the CRE FMP. It is not and should not be interpreted to be applicable to any management regime other than that of the CRE FMP. However, fishermen throughout the Region are obliged to follow the most restrictive management regime in effect in each area. Section 1.4 of the EIS has been expanded to include a statement to that effect. Section 5.4 describes the potential conflicts in management regimes.

Source	Cite	Comment	Response
Letter from U.S. DOI (Patricia Sanderson Port)	Page 8, concluding comments	A revised DEIS should fully recognize the existing management regimes of the relevant NWRs and the Reserve and present a preferred alternative that does not conflict with or diminish the Federal management regimes already in place.	Appendix G thoroughly describes the various jurisdictional regimes and Section 4.5 describes the Reserve management regime. Section 5.4 describes potential conflicts with the BSG FMP. Secretary of Commerce Evans has written that “(w)hile the sanctuary designation process and review of the Executive Orders are underway, the Department will continue to use conservation and management measures under existing statutory authorities, including the Magnuson-Stevens Fishery Conservation and Management Act, to meet the Act’s requirements to manage marine resources in the Northwest Hawaiian Islands consistent with the purposes and policies of the National Marine Sanctuaries Act.” This EIS is consistent with that directive.
Letter from Sierra Club, Dave Raney	Page 1, general comment 1	The DEIS is fatally flawed because it does not adequately address the NWHI ER. It fails to recognize that the Reserve exists now. Section 5.4 acknowledges that Alternative 1 does not recognize restrictions of the Reserve. How can an EIS be acceptable when its alternatives conflict with existing law?	Section 4.5 describes the Reserve management regime. Section 5.4 describes potential conflicts with the BSG FMP. In response to a request by the Council Chair for clarification, Secretary Evans replied in a letter dated June 30, 2001 “(w)hile the sanctuary designation process and review of the Executive Orders are underway, the Department will continue to use conservation and management measures under existing statutory authorities, including the Magnuson-Stevens Fishery Conservation and Management Act, to meet the Act’s requirements to manage marine resources in the Northwest Hawaiian Islands consistent with the purposes and policies of the National Marine Sanctuaries Act.”
Letter from Sierra Club, Dave Raney	Page 2, general comment 2	Finalization of the DEIS should await clarification of the Reserve management regime. NMFS and the National Marine Sanctuary Program are both housed in the National Ocean Service. The EOs direct the Secretary of Commerce to facilitate coordinated management. NOS has failed to resolve key issues under its jurisdiction. NMSP has stated the EOs are “self-executing”, but NMFS and WPRFMC continue to refer to the uncertainties. NMFS and NMSP should request the Secretary of Commerce to resolve outstanding issues.	Please note that NMFS is not housed within the NOS; they are both agencies within NOAA. In response to a request by the Council Chair for clarification of the management regime, Secretary Evans replied in a letter dated June 30, 2001 “(w)hile the sanctuary designation process and review of the Executive Orders are underway, the Department will continue to use conservation and management measures under existing statutory authorities, including the Magnuson-Stevens Fishery Conservation and Management Act, to meet the Act’s requirements to manage marine resources in the Northwest Hawaiian Islands consistent with the purposes and policies of the National Marine Sanctuaries Act.” As the Sanctuary designation process proceeds, coordination of the various Federal agencies’ policies will occur and outstanding issues will be resolved.

Source	Cite	Comment	Response
Letter from Sierra Club, Dave Raney	Page 2, general comment 3	NMFS has not brought the BSG FMP into compliance with the EOs and we urge it to do so. This constitutes rejection of the cooperative approach mandated by the EOs. This places an unreasonable burden on fishers and the general public to determine and comply with the most restrictive management regime.	It is NMFS' and the WPRFMC's duty to manage fisheries in the Western Pacific Region according to the statutory mandates of the Magnuson-Stevens Act, as amended by the Sustainable Fisheries Act and also to comply with all other applicable laws, regulations and Executive Orders. NMFS and the Council are cooperating in clarification of the Reserve's policies through participation in the Reserve Advisory Council. Bottomfish fishermen are briefed on the requirements of the various management regimes in a mandatory protected species workshop each vessel operator must attend. It is unclear how the general public would be burdened.
Letter from Sierra Club, Dave Raney	Page 2, general comment 4	The WPRFMC prepared and circulated a "worst case" analysis of the impacts of the Reserve on the bottomfish fishery in the NWHI. They have been asked to clarify that study to provide an accurate and objective study of the impacts and have not done so. The DEIS should contain an analysis of the impacts of the Reserve on the bottomfish fishery.	The "worst case" impacts analysis prepared by the Council is the best that can be done at this time for three reasons. First, the intrinsic ambiguities in the EOs' wordings could imply a range of real-world scenarios. Second, catch and effort data collected from the logbooks in this fishery are not specific enough as to location to tease out what the catch and effort were in the Reserves' closed areas. Third, there are so few participants in this fishery, that in many cases, data are effectively sealed by data confidentiality restrictions. More fundamentally however, it is not the purpose of this EIS to assess the impacts of creation of the Reserve.
Letter from Sierra Club, Dave Raney	Page 3, general comment 4	NMFS has rejected portions of the CRE FMP and a proposed precious corals FMP dealing with the NWHI because they would be inconsistent with or duplicate certain provisions of the EOs. This disapproval is not noted in Section 4.5, where the CRE FMP is discussed.	The status of the CRE FMP and the amendment to the Precious Corals FMP were unresolved when the DEIS was completed. The discussion of the CRE FMP was included at the request of personnel from NMFS Headquarters, NOS and the FWS. Clarification of the status of the CRE FMP has been added.
Letter from Sierra Club, Dave Raney	Page 3, concluding general comment	The DEIS does not represent an accurate depiction of the existing management regime for the NWHI bottomfish fishery because it does not embrace the protections of the EOs.	The authors' attention is directed to the clarification received from Secretary Evans: "(w)hile the sanctuary designation process and review of the Executive Orders are underway, the Department will continue to use conservation and management measures under existing statutory authorities, including the Magnuson-Stevens Fishery Conservation and Management Act, to meet the Act's requirements to manage marine resources in the Northwest Hawaiian Islands consistent with the purposes and policies of the National Marine Sanctuaries Act." This is what this EIS does.

Source	Cite	Comment	Response
Letter from Sierra Club, Dave Raney	Page 3, specific comment 1	The DEIS does not incorporate the effects of the EOs on the Alternatives.	The purpose of this EIS is to analyze the impacts of alternative bottomfish fishery management regimes. A separate EIS will be prepared as part of the Sanctuary designation process.
Letter from Sierra Club, Dave Raney	Page 3, specific comment 2	The comment disputes DEIS statements that the FMP management regime is consistent with restrictions of the EOs.	The current status of the Reserve will be clarified in the document. Section 5.4 describes potential management regime conflicts.
Letter from Sierra Club, Dave Raney	Page 4, specific comment 3	There is no mention of NMFS' disapproval of portions of the CRE FMP dealing with the NWHI, and that should be corrected.	The status of the CRE FMP was unresolved when the DEIS was completed. The current status of the CRE FMP has been clarified in the document.
Letter from Sierra Club, Dave Raney	Page 4, specific comment 4	The No Action Alternative should include provisions of the EOs and the NWRs.	The alternatives in this FEIS concern the bottomfish FMP and potential modifications of it. Provisions of the EOs and the management regime of the NWRs are externalities in that context.
Letter from Sierra Club, Dave Raney	Page 4, specific comment 5	If substituted for the protected areas defined in the EOs, Alternative 4 would reduce the amount of protected area in the NWHI. The WPRFMC's no-take fishery boundaries for the PRIAs would reduce the amount of protected area in those areas.	The FEIS clearly states that fishermen throughout the Region are obliged to follow the most restrictive management regime in effect in each area. The net effect would thus be an increase in protected areas in the NWHI if either of the Alternative 4 options were adopted. An element of Alternative 1 (to be part of the new Alternative 1B) is a pending action to include the CNMI and the PRIAs under the BSG FMP. It is recognized that there is an ongoing disagreement between the Dept. of Commerce and the Department of the Interior regarding NWR boundaries in the PRIAs. Appendix G of the DEIS describes the differing claims of the DOC and the DOI regarding refuge boundaries and their legal foundations. Table 1 of that appendix is a summary of those claims and those of other jurisdictions as well. It is recognized that this EIS is not a vehicle for resolution of those differing claims. However, Section 1.4 of the EIS has been expanded to acknowledge this controversy. Section 5.4 describes the potential conflicts in management regimes.
Letter from Sierra Club, Dave Raney	Page 5, specific comment 6	Section 2.3.4 on regulations does not contain restrictions pursuant to the EOs. How bottomfish catch and effort are monitored should be described. How provisions of the EOs are being enforced should be described.	Section 2.3.4 describes the regulations currently in force pursuant to the BSG FMP. This section was renamed for clarity. Section 2.3.1 will be augmented to describe how bottomfish catch and effort are monitored. Section 1.4 has been augmented to describe how the provisions of the EOs are being enforced.

Source	Cite	Comment	Response
Letter from Sierra Club, Dave Raney	Page 5, specific comment 7	What steps is NMFS taking to resolve the ambiguities in the EOs related to bottomfish fishing in the NWHI? Does the No Action alternative assume no resolution of the ambiguities and incomplete enforcement of the EOs?	NMFS is a participant on the Reserve Advisory Council. RAC meetings are the appropriate forum for discussion of the ambiguities in the EOs, but that is not an objective of this EIS. The No Action alternative does not attempt to predict the outcome of that resolution process, nor does it attempt to establish priorities for enforcement.
Letter from Sierra Club, Dave Raney	Page 5, specific comment 8	Explain the relevance of Table 2-2 to Table 2-3. Many species in Table 2-2 would not be considered bottomfish. If added to BMUS they would be exempt from provisions of the CRE FMP, but that was disapproved for the NWHI. What are the relevance and potential impacts of adding these species to the FMP?	Under (new) Alternative 1B, the species listed in Table 2.2 would be included in the "Target Species" resource category of Table 2-3. As can be seen from Table 2-1, jacks, groupers and snappers comprise the majority of current bottomfish management unit species. In parts of the Region outside Hawaii, species harvested while bottomfishing often consist of deep and shallow slope species. The Council voted in 1998 to include shallow slope species as BMUS because: 1) shallow slope species were being captured using bottomfish gear; and 2) these species were not being monitored or managed within the framework of an FMP. The relevance and potential impacts of adding them to the list of BMUS is that they will be afforded protection and monitoring under the MSA. For the several species on the list to be added that occur in the NWHI, protection afforded by the CRE FMP will not apply and therefore, their inclusion as BMUS provides the only mechanism for monitoring and protection.

Source	Cite	Comment	Response
Letter from Sierra Club, Dave Raney	Page 6, specific comment 9	The additional protection afforded by Alternative 4 should not be a substitute for protections under the EOs. What is the basis for the estimate of reduced landings and gross revenues of Alternatives 4A and 4B compared to Alternative 1? Could MHI bottomfish stocks or recruitment increase under Alternatives 2 or 3? Provide a quantitative estimate of the savings in administrative costs under Alternatives 2 and 3.	<p>The DEIS clearly states that fishermen throughout the Region are obliged to follow the most restrictive management regime in effect in each area; Alternative 4 is not proposed as a substitute for the Reserve. The estimates of reduced catches and revenues are based on the best historical information available for catches and revenues from the Preservation Zones. It does not attempt to estimate the effects of effort relocation, and thus represents a “worst case” assessment.</p> <p>There is no scientific evidence that suggests MHI stocks will benefit from any closure, proposed or in place, in the NWHI, or visa versa.</p> <p>Changes in administrative costs under Alternatives 2 and 3 would not decrease, but could increase. If there were no fishery, administrative tasks associated with that fishery would continue due to archipelagic stock structure research and requirements under MSA National Standard 1. Local depletion in the MHI would require continued monitoring of archipelagic stock biomass. Because monitoring of the NWHI resource relies on fishery dependent information, removal of fishing effort would require fishery independent research in the NWHI to annually assess resource status. Enforcement costs would continue through surveillance and monitoring of the closed area. Aerial and/or cutter surveillance may have to be increased due to the removal of federally-permitted fishing vessels which report illegal encroachment activities to the USCG. Cost savings could be realized through the cessation of permit issuance. However, the cost of permit issuance is offset through collection of fees from permit holders (<\$100).</p>
Letter from Sierra Club, Dave Raney	Page 6, specific comment 10	Do the estimated effects of Alternative 4 take into account the EOs’ restrictions?	The estimates of reduced catches and revenues are based on the best information available for catches and revenues from the Preservation Zones of Alternative 4. The analysis does not attempt to estimate the effects of effort relocation, and thus represents a “worst case” assessment. Catch and effort data collected from the logbooks in this fishery are not specific enough as to location to tease out what the catch and effort were in the Reserves’ closed areas.

Source	Cite	Comment	Response
Letter from Sierra Club, Dave Raney	Page 7, summary	The DEIS is unacceptable because the Preferred Alternative does not include the EOs. The Secretary of Commerce should establish Reserve fishing caps and resolve other ambiguities with respect to bottomfishing so the DEIS can be an accurate and valid document.	The management action contemplated in this EIS is amendment of the BSG FMP. The EO is not part of the FMP and is not properly a part of any of its alternatives. The EO is an externality and as such is considered in cumulative impacts analyses.
Letter from The Ocean Conservancy, E. Athas and C. Dorsett	Page 1, general comment 1	As part of the sanctuary designation process, the Fishery Council will provide input on fishery regulations. A DEIS will then be done on the Sanctuary. The bottomfish EIS addresses only one small part of the fishing regulations to be developed as part of the sanctuary designation process. The sanctuary EIS will replicate the bottomfish EIS in much more detail and formality within months. Also, it fails to consider the full ecosystem of the NWHI.	The bottomfish EIS process began well before creation of the EOs and the NWHI Reserve. The Council desires to update its FMP and carry out its responsibilities vis a vis the Magnuson-Stevens Act. The sanctuary designation process and particularly the development of its EIS will undoubtedly require some time to complete. To date, alternatives have yet to be developed. The bottomfish fishery is the only active fishery in the NWHI. Regulations pertaining to currently non-existent fisheries are not a priority. Why the sanctuary EIS would find it necessary to replicate the bottomfish EIS (and how that would be accomplished) "with much more detail and formality" is unclear, given that the Council and NMFS will be the source of most of the relevant data, and the bottomfish EIS will be available for incorporation by reference. Other components of the ecosystem, including bycatch, protected species, EFH, biodiversity, ecological function, the various sectors of the fishery, the regional economy, social factors and administration and enforcement are assessed in the bottomfish EIS. Scoping for the bottomfish EIS did not reveal other areas of concern, and according to CEQ guidelines, an encyclopedic description of the "full ecosystem" would be inappropriate.
Letter from The Ocean Conservancy, E. Athas and C. Dorsett	Page 2, general comment 2	The bottomfish EIS inaccurately describes existing protections in the NWHI. Section 2.3.5, Pending Management Measures, and the summary charts do not adequately assess the existing legal regime's baseline and effects on the alternatives and comparisons among and between the alternatives. Existing environmental protections for the area are not truthfully set forth and the document is inadequate for informed decisionmaking.	Section 2.3.5 and in fact all of Section 2.3 describe the management regime of the bottomfish FMP. This EIS is not the NEPA document for the Reserve. For this action the Reserve's regime is considered under cumulative impacts in Section 4.5. The two regimes are there compared and contrasted. This approach was agreed to by DOC and DOI. Section 5.4 characterizes the potential conflicts between the two regimes.

Source	Cite	Comment	Response
Letter from The Ocean Conservancy, E. Athas and C. Dorsett	Page 3, specific comment 1	The DEIS fails to provide a comprehensive view of issues and management options. The scope of the management alternatives is too narrow. Current approaches and tools to manage the fishery sustainably should be compared with alternative approaches.	The issues considered in the EIS were those identified as ripe for decisionmaking in the scoping process. The alternatives were designed to provide a broad range of actions with a corresponding broad range of impacts to affected environmental resources. They range from a complete closure of the fishery to maintenance of the status quo. All of the other action alternatives are more restrictive than the status quo. The approach and tools for sustainable fishery management follow the guidelines established in the Magnuson-Stevens Act, as amended by the Sustainable Fisheries Act. NMFS and the Council are not at liberty to arbitrarily develop independent approaches to fishery management.
Letter from The Ocean Conservancy, E. Athas and C. Dorsett	Page 3, specific comment 2	Alternatives should include better catch and bycatch accounting mechanisms. The EIS should identify methods to more accurately assess catch and effort, bycatch and habitat impacts. The DEIS should review fishing related mortality in all fisheries impacting bottomfish, and identify methods to acquire the data necessary to manage the fishery according to the MCMA. Precautionary reductions in fishing mortality should be proscribed if adequate data cannot be obtained.	Fishing in the NWHI under the FMP is severely restricted by the limited entry programs in effect, and there are no other fisheries that impact bottomfish stocks there. Available data show that those stocks are in a healthy condition and are being fished well within the limits of sustainability. The logbooks required of fishery participants provide data on catch and effort of target species and bycatch. Granted, more and more objectively reported data are always desirable. That is why NMFS has reinstituted an observer program for this fishery. Habitat impacts have been looked at in a research program using submersibles, and the results indicate that the impacts of anchoring and fishing are insignificant, especially considering the huge impacts on habitat of winter storm events in the NWHI.

Source	Cite	Comment	Response
Letter from The Ocean Conservancy, E. Athas and C. Dorsett	Page 4, specific comment 3	Include a better discussion of the problems associated with the current mixed stock fishery management system and alternatives for addressing this issue. Localized depletion of “weaker” species such as <i>onaga</i> and <i>ehu</i> can occur. A weakest link fishery management approach should be evaluated. The DEIS should consult the Technical Guidance On the Use of Precautionary Approaches to Implementing National Standard One for management approaches and selection of appropriate management targets and thresholds.	<p>The fishery is managed as a mixed stock fishery because many of the target species have similar life histories and overlapping habitat preferences and they are caught with the same gear in the same locations. The available catch and effort data do allow an estimate of MSY for the individual stocks, and these results indicate that the stocks are not overfished. The Council and NMFS recognize local depletion issues exist for two species in the main Hawaiian islands. Because 80% of the bottomfish habitat in the MHI lies within State of Hawaii jurisdiction, the state has taken the management lead by creating 19 bottomfish area closures and recreational bag limits throughout the main islands. The management regime has been in place for five years and is currently being reviewed by the State for effectiveness. Should the problem persist, the Council may consider action(s) to manage bottomfish in federal waters of the main Hawaiian Islands.</p> <p>The MSA defines “fishery” as “one or more stocks of fish which can be treated as a unit for purposes of conservation and management.” In this definition, Congress did not intend to discontinue mixed stock fisheries. However, in response to concerns regarding overfishing in mixed-stock fisheries, the Council must meet three stringent conditions: “1) It must demonstrate by analysis that the action will result in long term net benefits to the Nation; 2) It must demonstrate by analysis that a similar level of benefits cannot be achieved by modifying fleet behavior, gear selection, or configuration, or any other technical characteristic so that no overfishing would occur; and 3) It must ensure that the action will not cause any species or evolutionarily significant unit thereof to require protection under the Endangered Species Act.”</p> <p>By meeting these conditions, overfishing a mixed stock fishery has been significantly constrained by requiring a) demonstration of long-term rather than short term benefits, b) consideration of technical or operational alternatives to overfishing and c) that fishery resources remain above ESA listing criteria.</p> <p>Additional text has been added to Section 3.1.2.1.3 explaining the control rules for the fishery and their applicability to a mixed-stock fishery.</p>

Source	Cite	Comment	Response
Letter from The Ocean Conservancy, E. Athas and C. Dorsett	Page 4, specific comment 4	Alternatives should address localized depletion issues in the MHI. NMFS and the Council have management responsibility for BMUS and because stocks are managed on an archipelago-wide basis, additional management strategies should be analyzed including thresholds for regulatory action. Impacts of localized depletion from a fishery and ecological standpoint should be discussed and potential solutions offered for federal waters in the MHI. Include findings from Friedlander and DeMartini (2002).	There is an agreement among NMFS, the Council and the State of Hawaii for the State to manage bottomfish fisheries in the Main Hawaiian Islands. This is intended to minimize conflicts between management regimes and confusion among fishermen. To this end the State has imposed area closures and bag limits in a 10-year stock rebuilding program. They are currently evaluating preliminary data from catch and effort studies and submersible surveys. The Council is relooking at the issue of archipelagic stocks with an eye toward perhaps establishing new control rules.
Letter from The Ocean Conservancy, E. Athas and C. Dorsett	Page 4, specific comment 5	Consideration of the impacts on monk seals should be undertaken from a broader perspective, i.e., the impact of operating both lobster and bottomfish fisheries in the NWHI. Include more recent data.	The lobster fishery in the NWHI has not operated since 1999, and the Council and NMFS are currently in process of reviewing the impacts of that fishery in an EIS. The potential impacts of the bottomfish fishery on the monk seal was exhaustively reviewed in this FEIS. New data does not indicate significant changes to the monk seal population, except perhaps an increase in the number of seals in the MHI.
Letter from Environmental Defense, Stephanie Fried	Page 1, paragraph 2	Three years after establishment of the Reserve the BSG FMP has not been amended to comply with the EOs.	The EOs establishing the NWHI ER are imprecise in geographic descriptions and catch and effort limitations. In response to a request by the Council Chair for clarification of this issue, Secretary Evans replied in a letter dated June 30, 2001 “(w)hile the sanctuary designation process and review of the Executive Orders are underway, the Department will continue to use conservation and management measures under existing statutory authorities, including the Magnuson-Stevens Fishery Conservation and Management Act, to meet the Act’s requirements to manage marine resources in the Northwest Hawaiian Islands consistent with the purposes and policies of the National Marine Sanctuaries Act.”
Letter from Environmental Defense, Stephanie Fried	Page 1, paragraph 3	The No Action alternative fails to recognize the EO conservation measures and fishing prohibitions and encompass NMFS’ rejection of the CRE FMP and Precious Coral FMP.	The No-Action alternative contemplated in this EIS is the existing BSG FMP. The EO is not part of the FMP and is not properly a part of any of its alternatives. The EO is an externality and has been treated as such. It is considered under Section 4.5, Cumulative Impacts, as is the CRE FMP. The connection between the Precious Corals FMP and the Bottomfish FMP alternatives is unclear.

Source	Cite	Comment	Response
Letter from Environmental Defense, Stephanie Fried	Page 1, paragraph 4	The summary of EO 13178 as modified by EO 13196 is factually incorrect and disregards the purpose of the latter.	Without a more precise explanation of what the reader perceives to be factually incorrect, it is impossible to address this comment.
Letter from Environmental Defense, Stephanie Fried	Page 2, comment 1	Amend the EIS to bring it into full compliance with the EOs.	The management action contemplated in this EIS is an amendment of the BSG FMP. The EO is not part of the FMP and is not properly a part of any of its alternatives. The EO is an externality and has been treated as such. It is considered under Section 4.5, Cumulative Impacts, as is the CRE FMP.
Letter from Environmental Defense, Stephanie Fried	Page 2, comment 2	This is essentially the same comment as page 1, paragraph 3.	See response above.
Letter from Environmental Defense, Stephanie Fried	Page 2, comment 3	Urge the DOC to finalize bottomfish caps as submitted by the RAC over 18 months ago.	This request is beyond the scope of this document.
Letter from Environmental Defense, Stephanie Fried	Page 2, comment 4	Urge NMFS to specify the management and enforcement costs associated with the NWHI bottomfish fishery. Need a clear cost-benefit analysis.	It is not the function of this EIS to urge any specific action.
Letter from Environmental Defense, Stephanie Fried	Page 3, paragraph 6	Page B-17 seems to indicate that the NWHI RPAs are not permanent.	Wording in Appendix G has been revised, as appropriate.
Letter from Environmental Defense, Stephanie Fried	Page 4, paragraph 7	The No Action alternative has not been modified to reflect FR 68 (150) 46113, August 5, 2003, which says EOs and all restrictions are in effect.	The management action contemplated in this EIS is amendment of the BSG FMP. The EO is not part of the FMP and is not properly a part of any of its alternatives. The EO is an externality and has been treated as such. It is considered under Section 4.5, Cumulative Impacts, as is the CRE FMP.
Letter from Environmental Defense, Stephanie Fried	Page 5, paragraph 1	Impacts summary reduces the number of permit holders and harvest, but income generated and number of jobs doesn't change.	This was an oversight and text has been corrected in the FEIS.

Source	Cite	Comment	Response
Letter from Environmental Defense, Stephanie Fried	Page 5, paragraph 2	Specify why Alternatives 2 and 3 could have a disproportionately high and adverse effect on minority populations.	The conclusion is conditioned to the extent that participants in the fishery consist of members of minority populations.
Public Hearing October 27, 2003 Lihue, Kauai		Comment from Mr. Mark Oyama: "I support the no action alternative because from a restaurant owner's perspective, the bottomfish that come out of the NWHI are of a lot higher quality than import fish. Also since there's just small number of fishermen allowed to fish up there, I don't think they will deplete the resource."	Comment acknowledged.
Public Hearing October 28, 2003 Kahului, HI		<p>Comment from Mr. Bobby Gomes (Ho`omalulu permit holder): "I'd rather stick with the WesPac's stuff than to go with what the EO (NWHI CRER) is doing."</p> <p>Comment from Ms. Sharane Gomes: "I support the "No Action" alternative for management in the NWHI bottomfish fishery. Having personal knowledge of the fishing methods and the fishery, I feel the area can sustain the current fishery practices and management."</p>	<p>Comment acknowledged.</p> <p>Comment acknowledged.</p>
Public Hearing October 29, 2003 Hilo, HI		Comment from Mr. Craig Severence: "If the NWHI bottomfish fishery is shut down, either by attrition, grandfathering, or by immediate cessation, it is going to redirect some of those larger and more effective fishermen into the MHI, providing competition for local fishermen. So what is done in the NWHI is going to have an impact on what happens in the MHI. The range of alternatives in the DEIS really need to fully consider the social and economic impacts on the existing fishermen in the NWHI and the MHI."	Chapter 4 describes the anticipated economic impact of each alternative on bottomfish fishermen in the NWHI and MHI.

Source	Cite	Comment	Response
Public Hearing October 30, 2003 Kailua-Kona, HI		Comment from Ms. Jackie Murphy: “How do the DEIS alternatives affect the Native Hawaiian Community.”	Chapter 4 describes the anticipated impacts of each alternative on the Native Hawaiian Community. Generally, the alternatives 1 and 4 would positively impact native Hawaiians that participate in the fishery, with alternatives 2 and 3 adversely affecting native Hawaiians that participate in the fishery.
Public Hearing Nov. 6, 2003 Pago Pago, AS		Comment from Mr. Bill Sword: “Why doesn’t the DEIS discuss management measures for the bottomfish fishery in American Samoa, for example like 50 ft/50 nm closure similar to the one recently passed for Guam?”	Public scoping conducted for the Bottomfish DEIS, as well as the Council’s public participation process, has not revealed a need for new management measures pertaining to the bottomfish fishery in American Samoa. Chapter 3 section 5.2 describes the bottomfish fishery in American Samoa.
Public Hearing Nov. 11, 2003 Honolulu, HI		No comments received.	
Public Hearing Nov. 19, 2003 Susupe, CNMI		No comments received.	
Public Hearing Nov. 26, 2003 Hagatna, Guam		Ten people commented in support of Alternative 4.	Comments acknowledged.